

IN THE COURT OF APPEALS OF IOWA

No. 0-773 / 10-1478
Filed November 10, 2010

**IN THE INTEREST OF M.M.G.C.,
Minor Child,**

**R.M.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Constance Cohen,
Associate Juvenile Judge.

A mother appeals the district court's order terminating her parental rights.

AFFIRMED.

Andrea M. Flanagan of Sporer & Flanagan, P.L.L.C., Des Moines, for
appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, Andrea Vitzthum, Assistant
County Attorney, for appellee State.

John Audlehelm, Des Moines, for appellee father.

Jami J. Hagemeier of Williams & Blackburn, P.L.C., Des Moines, attorney
and guardian ad litem for minor child.

Considered by Sackett, C.J., and Vogel and Vaitheswaran, JJ.

VOGEL, J.

Rita appeals the termination of her parental rights to her child, M.C., born March 2010.¹ In August 2010, the district court terminated Rita's rights under Iowa Code sections 232.116(1)(d) (adjudicated CINA for physical abuse or neglect, circumstances continue despite services), and (g) (child CINA, parent's rights to another child were terminated, parent does not respond to services). We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

M.C. was removed from Rita's custody at birth and placed in foster care, where she has remained. Although this case involves only M.C., Rita has had her parental rights terminated to her four older children. While not directly related to the termination of Rita's parental rights to M.C., this fact sheds light on Rita's ongoing problems and her inability to learn acceptable standards of parenting such that M.C. could be returned to her care. Case history records are entitled to much probative force when a parent's current performance is being examined.² *In re S.N.*, 500 N.W.2d 32, 34 (Iowa 1993).

Rita first asserts the State failed to prove by clear and convincing evidence that she was offered services to correct the circumstances that led to M.C.'s adjudication in April 2010. Specifically, she asserts the State failed to demonstrate her mental health concerns were unresolved. Iowa Department of

¹ The parental rights of any "unknown putative father" were terminated and not appealed.

² The court took judicial notice of all prior underlying files involving the removal of her other four children, and incorporated them by reference.

Human Services (DHS) reports document that Rita received supervised visitation with M.C., individual therapy, couples' counseling, a psychological evaluation at the University of Iowa Hospitals, bus tokens, gasoline cards, Visiting Nurse Services, and a parent partner to work with Rita. The Iowa City psychological evaluation documented her past mental health problems and found that her history suggested she had features of "personality disorder including inability to maintain friendships . . . irritability, inability to trust people, and low self-esteem."³

The district court found that Rita was provided services and therapists specifically to address her mental health needs, including additional funding for transportation and specialists, but the basic fact was that Rita did not avail herself of the opportunities she was given. Despite these services, Rita was unable to progress past supervised visitation. Between M.C.'s removal in March 2010 and the termination hearing in August, Rita missed approximately ten visits, and often arrived late or left early when she did attend the visits. On one occasion, Rita cried uncontrollably, and left soon after arriving. Her mental health therapist, Raygena Curry, testified Rita still needed to work on issues of "consistency, stability, trustworthiness and being responsible," and needed "long-term therapy." We find Rita was provided sufficient services, yet her mental health concerns that have plagued her for years were still far from being resolved at the time of the termination hearing.

³ The Iowa City psychological report was not introduced at trial, but the court left the record open for admission of the report with the opportunity to present further evidence. The report was received on August 12, 2010, on the agreement of the parties; the parties also agreed there was no need for additional testimony.

Rita also asserts the State failed to prove she lacked the ability or willingness to respond to the services offered. Rita's history reveals a long and troubled pattern of emotional instability and difficulty forming healthy relationships. While Rita strives to be a good parent and comply with the provided services, she has been unable to control her emotions and anxiety to the extent she can provide a stable and safe environment for M.C. Her loud, boisterous, unpredictable behavior began affecting the relationship between Rita and M.C. during visits. Jessica Brase, family safety, risk, and permanency coordinator at LifeWorks, a service agency that provides family and individual counseling, expressed significant concerns regarding Rita's interactions with M.C. Since the end of May 2010, Brase noticed a pattern of M.C. becoming increasingly upset when she was with Rita. She would "cry very hard and get extremely upset during the visits to the point that she would be throwing up and vomiting her food. She couldn't be calmed." M.C. did not exhibit these behaviors in the presence of anyone else. While M.C. eventually became calmer during her visits, Rita failed to consistently engage in services or attend visits with M.C. such that the providers could mark improvement in Rita's ability to control her own behavior. We, like the district court, conclude clear and convincing evidence supports termination under Iowa Code sections 232.116(1)(d) and (g).

Even if a statutory ground for termination is met, a decision to terminate must still be in the best interest of a child after a review of Iowa Code section 232.116(2). *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010). We consider "the child's safety," "the best placement for furthering the long-term nurturing and growth of the child," and "the physical, mental, and emotional condition and

needs of the child.” *Id.* Rita asserts it was in M.C.’s best interest to allow her additional time prior to termination. While she did make some improvement, that progress was short in duration. Rita continues to have relationships with inappropriate people and did not prove her mental health was stable enough to provide a safe environment for M.C. M.C. has been in foster care her entire life and is thriving. We conclude termination of Rita’s parental rights was in M.C.’s best interest as set forth under the factors in section 232.116(2).

AFFIRMED.